

§ 228.20 Reduction for an employee annuity.

(a) *General.* If an individual is entitled to an annuity as a survivor, and is also entitled to an employee annuity, then the survivor annuity must be reduced by the amount of the employee annuity. However, this reduction does not apply (except as provided in paragraph (b) of this section) if the survivor or the individual upon whose earnings record the survivor annuity is based worked for a railroad employer or as an employee representative before January 1, 1975.

(b) *Tier I reduction.* If an individual is entitled to an annuity as a survivor, then the tier I component of the survivor annuity must be reduced by the amount of the tier I component of the employee annuity after reduction for age. Where the survivor is entitled to a tier II component and either the survivor or the employee had railroad earnings before 1975, a portion of this reduction may be restored in the computation of the tier II component (see § 228.52 of this part).

§ 228.21 Entitlement as a spouse or divorced spouse and as a survivor.

If an individual is entitled to both a spouse or divorced spouse and survivor annuity, only the larger annuity will be paid. However, if the individual so chooses, he or she may receive the smaller annuity rather than the larger annuity.

§ 228.22 Entitlement to more than one survivor annuity.

If an individual is entitled to more than one survivor annuity, only the larger annuity will be paid. However, if the individual so chooses, he or she may receive the smaller annuity rather than the larger annuity.

§ 228.23 Priority of reductions.

The tier I component of the survivor annuity is first reduced by the family maximum, if applicable, then any applicable age reduction, then by any public pension offset, then by any social security benefit payable, then by the tier I component of any employee annuity payable to the survivor annuitant.

§ 228.40 Cost of living increase applicable to the tier I annuity component.

The tier I annuity component of a survivor annuity is increased at the same time and by the same percentage as the increase provided for under section 215(i) of the Social Security Act. The amount of the increase is published in the FEDERAL REGISTER annually. The cost-of-living increase is payable beginning with the benefit for the month of December of the year for which the increase is due. The increase is paid in the January payment.

Subpart C—The Tier II Annuity Component**§ 228.50 Tier II annuity component widow(er), child, or parent.**

(a) *General.* The tier II annuity component is an additional amount payable to a widow(er), disabled widow(er), child, or parent, but not to a surviving divorced spouse or remarried widow(er), and a parent as provided in paragraph (b)(2) of this section, based on the railroad employee's earnings in the railroad industry. Unlike the tier I annuity component it is not reduced for any other social insurance benefit except a railroad retirement annuity. See §§ 228.20–228.23 of this part.

(b) *Amount of the tier II annuity component (1981 amendment)*—(1) *Widow(er) or disabled widow(er).* The amount of a widow(er)'s or disabled widow(er)'s tier II annuity component is 50 percent of the amount of the employee's tier II which would have been payable in the month in which the widow became entitled had the employee been alive and in receipt of an annuity under the Railroad Retirement Act at that time.

(2) *Parent.* The amount of a parent's tier II annuity component is 35 percent of the amount of the employee's tier II annuity component which would have been payable in the month in which the parent became entitled had the employee been alive and in receipt of an annuity under the Railroad Retirement Act at that time. However, if another survivor is entitled, or potentially entitled, to a tier II annuity component, the parent tier II annuity component is zero.